

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

RECEIVED
CENTRAL FAX CENTER

Page 1 of 23

FEB 11 2005

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Appl. No. : 09/933,782
Applicant(s) : van Overveld
Filed : 8/21/2001
TC/A.U. : 2121
Examiner : Hirl, Joseph P.
Atty. Docket : NL00.0465

**CERTIFICATE OF MAILING OR
TRANSMISSION**

I certify that this correspondence is being:

[] deposited with the U.S. Postal Service with
sufficient postage as first-class mail in an
envelope addressed to the Commissioner for
Patents, P.O. Box 1450, Alexandria, VA
22313-1450.

[X] transmitted by facsimile to the U.S. Patent
and Trademark Office at 703-872-9306

On: 11 February 2005

By: 

**Title: METHOD AND SYSTEM FOR GENERATING A RECOMMENDATION FOR A
SELECTION OF A PIECE OF CLOTHING**

Mail Stop: **APPEAL BRIEF - PATENTS**
Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL UNDER 37 CFR 41.37

Sir:

This is an appeal from the decision of the Examiner dated 8 October 2004,
finally rejecting claims 1-25 of the subject application.

This paper includes (each beginning on a separate sheet):

1. Appeal Brief;
2. Claims on Appeal; and
3. Credit card authorization in the amount of \$500.

02/14/2005 BBONNER 00000005 09933782

01 FC:1401

500.00 OP

NL000465 Appeal Brief 4.A08

Atty. Docket No. NL00.0465

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 2 of 23

APPEAL BRIEF

I. REAL PARTY IN INTEREST

The above-identified application is assigned, in its entirety, to **Koninklijke Philips Electronics, N.V.**

II. RELATED APPEALS AND INTERFERENCES

Appellant is not aware of any co-pending appeal or interference which will directly affect or be directly affected by or have any bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-25 are pending in the application.

Claims 1 and 8-15 stand rejected by the Examiner under 35 U.S.C. 101.

Claims 1-25 stand rejected by the Examiner under 35 U.S.C. 102(e).

These rejected claims are the subject of this appeal.

IV. STATUS OF AMENDMENTS

No amendments were filed subsequent to the final rejection in the Office Action dated 8 October 2004.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The invention comprises a method and system to assist a user in the selection of clothing from the user's inventory of clothing. As noted in the applicant's specification, the number of possible combinations of clothing available to a typical person in the Western world can be staggeringly high, and:

"Although some people may enjoy consciously dealing with this selection process every morning, others spend little attention to it (using few, partly implicit, default rules, completed with hap-hazard choices, thus ignoring vast subspaces of combination options), and again others find it a source of despair; indeed, it can cause irritation within family life if family members have very different opinions and rituals regarding this process." (Applicant's specification, page 1, lines 20-24).

**Appl. No. 09/933,782
Appeal Brief In Response
to final Office action of 8 October 2004**

Page 3 of 23

In a preferred embodiment, when the user selects a piece of clothing from the user's inventory, a recommendation for another piece of clothing is provided, based at least in part on this selection and the user's preferences (page 2, lines 9-27). Alternatively, a recommendation for an ensemble can be provided (page 2, lines 28-30).

Because a profile is maintained that includes an inventory of the user's apparel and the preferences of the user, directed advertisements for clothing can also be provided, to identify clothing that the user might like and does not currently own (page 3, lines 19-27).

As claimed in independent claim 1, the invention comprises a method that includes maintaining a clothing profile of the user, including an inventory of the user's apparel and preferences of the user, detecting a piece of clothing being selected from the inventory, updating the clothing profile based on the selection, and providing a recommendation to the user for another piece of clothing from the updated clothing profile (page 2, lines 9-12). As noted in the applicant's specification, because the user's inventory and preferences are known, the recommended piece of clothing is likely to be of interest to the user (page 2, lines 12-15).

As claimed in independent claim 2, upon which claims 3-7 depend, the invention comprises a system that includes a user profiling unit that maintains a clothing profile of the user, including an inventory of apparel and preferences of the user; a sensor that detects a piece of clothing being selected from the inventory, coupled to the database for updating the clothing profile based on the selected piece of clothing; a recommendation unit that generates a recommendation for another piece of clothing from the updated clothing profile; and a rendering system that presents the recommendation to the user (page 2, lines 16-23). Again, because the user's inventory and preferences are known, the recommended piece of clothing is likely to be of interest to the user (page 2, lines 23-27).

**Appl. No. 09/933,782
Appeal Brief In Response
to final Office action of 8 October 2004**

Page 4 of 23

As claimed in dependent claim 6, upon which claim 7 depends, the invention comprises the system of claim 2, further including determining a purpose for which the piece of clothing has been selected, and updating the clothing profile further based on the determined purpose (page 3, lines 3-10). Claim 7 includes determining the purpose based on an appointment in an electronic calendar (page 3, lines 11-16). For example, if the user has an appointment with clients, appropriate clothing is suggested (page 3, lines 16-18).

As claimed in independent claim 8, upon which claims 9 and 10 depend, the invention comprises a method of presenting a targeted clothing advertisement to a user that includes obtaining a clothing profile for the user, determining a clothing product that matches the clothing profile, and sending an identifier of the clothing product to the user (page 3, lines 19-23). Thus, the advertisements can be targeted to identify clothing that the user is likely to prefer, and does not yet possess (page 3, lines 23-27).

As claimed in independent claim 11, upon which claims 12-15 depend, the invention comprises a method that includes maintaining an inventory of apparel possessed by the user, determining one or more subsets of apparel from the inventory suitable for forming an ensemble, and presenting at least one of the one or more subsets of apparel to the user (page 2, lines 28-32). This is particularly effective when the ensemble is based on color, style, material compatibilities, current environmental conditions, the intent of the user, prior ensembles worn by the user, current fashion, and so on (page 11, lines 3-21).

As claimed in independent claim 16, upon which claims 17-25 depend, the invention comprises a system that includes an inventory system that maintains an inventory of apparel possessed by a user, a processor that identifies one or more subsets of apparel in the inventory suitable for forming an ensemble, and a display that is configured to present at least one of the one or more subsets of apparel to the

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 5 of 23

user (page 2, lines 28-32; page 18, lines 22-30). Various rules can be defined and used for selecting such subsets (page 11, lines 3-21).

VI. ISSUES TO BE REVIEWED ON APPEAL

Claims 1 and 8-15 stand rejected under 35 U.S.C. 101.

Claims 1-25¹ stand rejected under 35 U.S.C. 102(e) over Suzuki (USP 6,313,745).

VII. ARGUMENT

Rejection under 35 U.S.C. 101

Claim 1

1. A method of providing a recommendation to a user for a recommended piece of clothing from an inventory of apparel of the user, for use by the user, comprising:

- maintaining a clothing profile of the user, including the inventory of apparel and preferences of the user,
- detecting a piece of clothing being selected from the inventory and
- updating the clothing profile based on said selection,
- generating the recommendation for the recommended piece of clothing from the updated clothing profile, and
- providing the recommendation to the user.

The applicant respectfully maintains that the method claimed in claim 1 is a "new and useful process", and therefore patentable under 35 U.S.C. 101.

The Examiner asserts that, because the claimed method can also be performed manually, it is not patentable under 35 U.S.C. 101. The applicant respectfully disagrees with this assertion, because 35 U.S.C. 101 does not bar processes that can be performed manually. Historically, prior to current day automation techniques, most method claims were claims to manual processes. Even today, most computer-based inventions and many manufacturing processes can be performed manually, albeit perhaps less efficiently. Method claims for building structures, such as prefabricated buildings, are also commonly directed to manual

¹ The final Office action and previous Office actions specifically recite that: "Claims 1-10 are rejected under 35 U.S.C. 102(e)...", but the cover sheet to the Office action, and the accompanying text following this rejection, indicate that claims 11-25 are also rejected. This Appeal Brief is correspondingly prepared under the assumption that claims 1-25 are rejected under 35 U.S.C. 102(e) over Suzuki.

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 6 of 23

processes. Medical procedures, which are generally, and often preferably, performed manually, are likewise patentable. The mixture of chemicals to form a new compound can also often be performed manually. The applicant is unable to find any bar against processes that can be performed manually, per se.

MPEP 2106 specifically provides guidance for evaluating computer-related inventions:

"Office personnel have the burden to establish a *prima facie* case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. **Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. 101.** Compare *Musgrave*, 431 F.2d at 893, 167 USPQ at 289; *In re Foster*, 438 F.2d 1011, 1013, 169 USPQ 99, 101 (CCPA 1971). Further, when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection. ...

As the Supreme Court has held, Congress chose the expansive language of 35 U.S.C. 101 so as to include "anything under the sun that is made by man." *Diamond v. Chakrabarty*, 447 U.S. 303, 308-09, 206 USPQ 193, 197 (1980). Accordingly, section 101 of title 35, United States Code, provides:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

In *Chakrabarty*, 447 U.S. at 308-309, 206 USPQ at 197, the court stated:

In choosing such expansive terms as "manufacture" and "composition of matter," modified by the comprehensive "any," Congress plainly contemplated that the patent laws would be given wide scope. The relevant legislative history also supports a broad construction. The Patent Act of 1793, authored by Thomas Jefferson, defined statutory subject matter as "any new and useful art, machine, manufacture, or composition of matter, or any new or useful improvement [thereof]." Act of Feb. 21, 1793, ch. 11, § 1, 1 Stat. 318. The Act embodied Jefferson's philosophy that "ingenuity should receive a liberal encouragement." V Writings of Thomas Jefferson, at 75-76. See *Graham v. John Deere Co.*, 383 U.S. 1, 7-10 (148 USPQ 459, 462-464) (1966). Subsequent patent statutes in 1836, 1870, and 1874 employed this same broad language. In 1952, when the patent laws were recodified, Congress replaced the word "art" with "process," but otherwise left Jefferson's language intact. The Committee Reports accompanying the 1952 Act inform us that Congress intended statutory subject matter to "include anything under the sun that is made by man." S. Rep. No. 1979, 82d Cong., 2d Sess., 5 (1952); H.R. Rep. No. 1923, 82d Cong., 2d Sess., 6 (1952). [Footnote omitted]

This perspective has been embraced by the Federal Circuit:

The plain and unambiguous meaning of section 101 is that any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may be patented if it meets the requirements for patentability set forth in Title 35, such as those found in sections 102, 103, and 112. The use of

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 7 of 23

the expansive term "any" in section 101 represents Congress's intent not to place any restrictions on the subject matter for which a patent may be obtained beyond those specifically recited in section 101 and the other parts of Title 35. . . . Thus, it is improper to read into section 101 limitations as to the subject matter that may be patented where the legislative history does not indicate that Congress clearly intended such limitations.

Alappat, 33 F.3d at 1542, 31 USPQ2d at 1556.

The applicant respectfully notes that Congress did not say "any thing under the sun that is made by man *that cannot also be made manually*", as the Examiner's assertion implies.

Because claim 1 claims a new and useful process that has practical application in the technical arts, the applicant respectfully maintains that a rejection of claim 1 under 35 U.S.C. 101 is unfounded, and not in accordance with the specific directives of MPEP 2106.

Claims 8-10

8. A method of presenting a targeted clothing advertisement to a user, comprising
- obtaining a clothing profile for the user,
 - determining a clothing product that matches the clothing profile, and
 - sending an identifier of the clothing product to the user.

The Examiner asserts that, because the method of claim 8 can be performed manually, it is unpatentable under 35 U.S.C. 101. The applicant respectfully disagrees with this assertion, based on the comments above regarding claim 1.

Because claim 8, upon which claims 9 and 10 depend, claims a new and useful process that has practical application in the technical arts, the applicant respectfully maintains that a rejection of claims 8-10 under 35 U.S.C. 101 is unfounded, and not in accordance with the specific directives of MPEP 2106.

**Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004**

Page 8 of 23

Claims 11-15

11. A method of presenting a recommendation of an ensemble to a user, comprising:
 maintaining an inventory of apparel possessed by the user,
 determining one or more subsets of apparel from the inventory suitable for forming the ensemble,
 presenting at least one of the one or more subsets of apparel to the user.

The Examiner asserts that, because the method of claim 11 can be performed manually, it is unpatentable under 35 U.S.C. 101. The applicant respectfully disagrees with this assertion, based on the comments above regarding claim 1.

Because claim 11, upon which claims 12-15 depend, claims a new and useful process that has practical application in the technical arts, the applicant respectfully maintains that a rejection of claims 11-15 under 35 U.S.C. 101 is unfounded, and not in accordance with the specific directives of MPEP 2106.

Appl. No. 09/933,782
Appeal Brief In Response
to final Office action of 8 October 2004

Page 9 of 23

Rejection under 35 U.S.C. 102(e) over Suzuki

MPEP 2131 specifically states:

"A claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The *identical invention* must be shown in as *complete detail* as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Suzuki teaches a system that recognizes merchandise taken into a fitting room by a customer, and notifies a store clerk of this information, along with a recommendation of other items of potential interest to this customer.

Claim 1

1. A method of providing a recommendation to a user for a recommended piece of clothing from an inventory of apparel of the user, for use by the user, comprising:

- maintaining a clothing profile of the user, including the inventory of apparel and preferences of the user,
- detecting a piece of clothing being selected from the inventory and
- updating the clothing profile based on said selection,
- generating the recommendation for the recommended piece of clothing from the updated clothing profile, and
- providing the recommendation to the user.

Of particular note, Suzuki does not teach "detecting a piece of clothing being selected from the inventory ["of apparel of the user"] and updating the clothing profile based on said selection", as specifically claimed in claim 1. Suzuki teaches detecting the piece of clothing being selected from the store's inventory, and not the user's inventory, as specifically claimed.

Suzuki also does not teach "generating the recommendation for the recommended piece of clothing from the updated clothing profile [which includes the user's inventory, less the piece of clothing that was selected]", as specifically claimed in claim 1. Suzuki teaches generating a recommendation for a piece of clothing from the store's inventory, and not the user's inventory, as specifically claimed.

The Office action references Suzuki's column 2, lines 10-23 for all of the elements of claim 1. The referenced text follows:

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 10 of 23

"Accordingly, there is a need for a system and method for tracking and recognizing merchandise items carried into a fitting room by a customer for further data processing. Such system should display the fitting room number being utilized by a particular customer on an in-store display terminal accessible to a store clerk. The system should further display information on the items being tried on, such as the number of such items, their style, brand, color, and price. In addition, the system should process the style, brand, color, and price data of the items in the fitting room, and provide recommendations of other items consistent with the analyzed data. When used in combination with a customer identification card, the recommendations provided by the system should also be consistent with the customer's profile information."

As can be seen, the cited text upon which this rejection is based does not reference a user's inventory, does not reference detecting a selection from the user's inventory, and does not reference providing a recommendation from the remaining inventory. As such, the applicant respectfully maintains that the rejection of claim 1 under 35 U.S.C. 102(e) over Suzuki is unfounded.

Claims 2-7

2. A system for generating a recommendation to a user for a recommended piece of clothing from an inventory of apparel of a user, for use by the user, comprising:
a user profiling unit that is configured to maintain a clothing profile of the user, including the inventory of apparel and preferences of the user,
one or more sensors that are configured to detect a selected piece of clothing being selected from the inventory, coupled to the database for updating the clothing profile based on the selected piece of clothing,
a recommendation unit that is configured to generate the recommendation for the recommended piece of clothing from the updated clothing profile, and
a rendering system that is configured to present the recommendation to the user.

Suzuki does not teach "one or more sensors that are configured to detect a selected piece of clothing being selected from the inventory ["of apparel of a user"], coupled to the database for updating the clothing profile based on the selected piece of clothing", as specifically claimed in claim 2. Suzuki teaches detecting a piece of clothing being selected from a store's inventory, and not a user's inventory, as specifically claimed.

**Appl. No. 09/933,782
Appeal Brief In Response
to final Office action of 8 October 2004**

Page 11 of 23

Suzuki does not teach "a recommendation unit that is configured to generate the recommendation for the recommended piece of clothing from the updated clothing profile [that includes the user's inventory, updated by the selected piece]", as specifically claimed 2. Suzuki teaches providing a recommendation from the store's inventory, and not the user's inventory, as specifically claimed.

Suzuki does not teach "a rendering system that is configured to present the recommendation to the user", as specifically claimed in claim 2. Suzuki teaches a rendering system that provides the recommendation to a sales agent. The expressed purpose of Suzuki's system is to provide assistance to the sales clerk: "[the invention] allows one sales clerk to efficiently assist more than one customer at a time... The present system and method therefore helps bolster sales" (Suzuki, column 2, lines 59-65). If the sales agent is cast as the "user" of the applicant's invention, as proposed by the Examiner, then the claim becomes non-sensible, as it would imply that the system provides a recommendation based on an inventory of apparel of the sales agent, for use by the sales agent.

The Office action cites the above referenced column 2, lines 10-23 of Suzuki for teaching maintaining an inventory of the user's apparel and a selection from this inventory. As noted above, the cited text is silent with regard to a user's inventory, and silent with regard to detecting a selection from this inventory.

The Office action cites column 6, lines 57-59 for teaching "a recommendation unit that is configured to generate the recommendation for the recommended piece of clothing from the updated clothing profile"; the cited text follows:

"The AR engine 40 takes a product ID 48 of each product in the fitting room 12 obtained from the fitting room dataset 36 (FIG. 3) and searches the PLU table 180 (FIG. 4) for information about each of the products."

As can be seen, the cited text does not teach generating a recommendation from an updated clothing profile, as specifically claimed.

The Office action cites column 7, lines 4-7 for teaching "a rendering system that is configured to present the recommendation to the user"; the cited text follows:

"information related to a brand being tried-on. The recommended items are bundled into a recommendation record 54 and transmitted to the in-store terminals 28-32 as part of the fitting room record. Based on the

Appl. No. 09/933,782
Appeal Brief In Response
to final Office action of 8 October 2004

Page 12 of 23

recommendation information, store clerks can render advice customers in a more effective and efficient manner."

As can be seen, the cited text does not teach a rendering system that provides a recommendation to the user, if the user is defined as the person for which the recommendation is directed, as specifically claimed in claim 2.

Because Suzuki fails to teach each of the limitations of the claimed invention, and because the cited text in the Office action fails to support the assertion that Suzuki teaches these limitations, the applicant respectfully maintains that the rejection of claims 2-7 under 35 U.S.C. 102(e) over Suzuki is unfounded.

Claims 6-7

6. The system of claim 2, further comprising
input means for determining a purpose for which the piece of clothing has been selected,
the user profiling unit being further configured to update the clothing profile further based on the determined purpose.

Suzuki does not teach "determining a purpose for which the piece of clothing has been selected", as specifically claimed.

The Office action cites Suzuki column 2, lines 25-39 for this teaching; the cited text follows:

"The present invention addresses and alleviates the above-mentioned deficiencies associated with the prior art. More particularly, the present invention comprises a system and method for recognizing and recommending items taken into a fitting room by a customer. Each item has an electronic tag for storing the item's product identifier such as a UPC code or product name. Each room has an interrogator unit so that when an item is taken into the fitting room and is placed in proximity to an interrogation area defined by the fitting room's interrogator unit, the interrogator unit receives the item's product identifier. A processor coupled to the interrogator unit uses the product identifier to retrieve product profile information about the item, and recommends other items based on this information."

As can be seen, the cited text is silent with regard to determining a purpose for which the piece of clothing has been selected, and thus the rejection under 35 U.S.C. 102(e) based on this text is unfounded.

Similarly, claim 7 recites that determining the purpose is "based on an appointment in an electronic calendar".

**Appl. No. 09/933,782
Appeal Brief In Response
to final Office action of 8 October 2004**

Page 13 of 23

Suzuki does not teach determining a purpose for selecting clothing based on an appointment in an electronic calendar, as specifically claimed. The Office action cites Suzuki, column 8, lines 43-57 for this teaching, but the cited text fails to mention appointments or electronic calendars, or determining a purpose based on such appointments.

Claims 8-10

8. A method of presenting a targeted clothing advertisement to a user, comprising
 obtaining a clothing profile for the user,
 determining a clothing product that matches the clothing profile, and
 sending an identifier of the clothing product to the user.

Suzuki does not teach "sending an identifier of the clothing product to the user". The Office action cites Suzuki, column 6, line 60 through column 7, line 9 for this teaching. As noted above, Suzuki specifically teaches sending all information to the sales clerk. It is significant to note that the referenced text of Suzuki ends with the following sentence: "Based on the recommendation information, sales clerks can render advice [to] customers in a more effective and efficient manner".

Because Suzuki specifically teaches sending the information to the sales clerk, and not the person upon whom the clothing profile and recommendation is based, as specifically claimed by the applicant, the applicant respectfully maintains that the rejection of claims 8-10 under 35 U.S.C. 102(e) over Suzuki is unfounded.

Claims 11-15

11. A method of presenting a recommendation of an ensemble to a user, comprising:
 maintaining an inventory of apparel possessed by the user,
 determining one or more subsets of apparel from the inventory suitable for forming the ensemble,
 presenting at least one of the one or more subsets of apparel to the user.

Suzuki does not teach "determining one or more subsets of apparel from the inventory ["of apparel possessed by the user"] suitable for forming the ensemble", as specifically claimed.

**Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004**

Page 14 of 23

The Office action cites Suzuki's column 8, lines 43-67 for this teaching. Apparently, the Office action equates the record of the customer's prior purchases as the claimed inventory of apparel possessed by the user. The applicant concurs with this interpretation, but respectfully disagrees with the assertion that Suzuki's system chooses a subset of apparel from this inventory to form a recommended ensemble, as specifically claimed by the applicant. Such an interpretation is not supported in the cited text, and is inconsistent with the expressed purpose of Suzuki's system of bolstering sales. If Suzuki provided a recommended ensemble from an inventory of the customer's prior purchases, the customer would have no incentive to buy additional items from the store, because the customer already possesses the recommended ensemble. Rather, Suzuki specifically teaches providing recommendations from the store's inventory, and specifically excludes items in the customer's inventory from these recommendations: "the AR engine 40 uses a customer's purchase and trial history information to eliminate items from the recommendation record 54 if they have already been purchased or tried-on by the customer" (Suzuki, column 8, lines 61-64).

Because Suzuki does not teach determining a subset of apparel from a user's inventory to form an ensemble for the user, as specifically claimed, and because Suzuki specifically excludes apparel in a user's inventory from the recommendations, the applicant respectfully maintains that claims 11-15 are patentable under 35 U.S.C. 102(e) over Suzuki.

Claims 16-25

16. An apparel recommendation system comprising:
an inventory system that is configured to maintain an inventory of apparel possessed by a user,
a processor that is configured to identify one or more subsets of apparel in the inventory suitable for forming an ensemble, and
a display that is configured to present at least one of the one or more subsets of apparel to the user.

Suzuki does not teach "a processor that is configured to identify one or more subsets of apparel in the inventory [of apparel possessed by a user] suitable for forming an ensemble", as specifically claimed.

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 15 of 23

Suzuki does not teach "a display that is configured to present at least one of the one or more subsets of apparel to the user", as specifically claimed.

The Office action relies on a common basis for the rejection of claims 11 and 16. Therefore, the applicant requests the Board's attention to the remarks above regarding claim 11 and Suzuki.

Further, the applicant respectfully notes that Suzuki's display is configured to present recommendations to a sales agent, and not to the person possessing the inventory, as specifically claimed in claim 16.

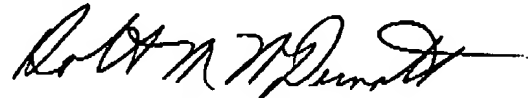
Because Suzuki does not teach a processor that determines a subset of apparel from a user's inventory to form an ensemble for the user, as specifically claimed, and because Suzuki specifically excludes apparel in a user's inventory from the recommendations, and because Suzuki does not teach a display that presents the recommended subsets to the user, as also specifically claimed, the applicant respectfully maintains that claims 16-25 are patentable under 35 U.S.C. 102(e) over Suzuki.

CONCLUSIONS

Because claims 1 and 8-15 claim new and useful processes that have practical application in the technical arts, the applicant respectfully requests that the Examiner's rejection of claims 1 and 8-15 under 35 U.S.C. 101 be reversed by the Board, and the claims be allowed to pass to issue.

Because Suzuki fails to teach each of the limitations of each of the claims 1-25, the applicant respectfully requests that the Examiner's rejection of claims 1-25 under 35 U.S.C. 102(e) over Suzuki be reversed by the Board, and the claims be allowed to pass to issue.

Respectfully submitted,



Robert M. McDermott, Attorney
Registration Number 41,508
804-493-0707

**Appl. No. 09/933,782
Appeal Brief In Response
to final Office action of 8 October 2004**

Page 16 of 23

**APPENDIX
CLAIMS ON APPEAL**

1. A method of providing a recommendation to a user for a recommended piece of clothing from an inventory of apparel of the user, for use by the user, comprising:
 - maintaining a clothing profile of the user, including the inventory of apparel and preferences of the user,
 - detecting a piece of clothing being selected from the inventory and updating the clothing profile based on said selection,
 - generating the recommendation for the recommended piece of clothing from the updated clothing profile, and
 - providing the recommendation to the user.

2. A system for generating a recommendation to a user for a recommended piece of clothing from an inventory of apparel of a user, for use by the user, comprising:
 - a user profiling unit that is configured to maintain a clothing profile of the user, including the inventory of apparel and preferences of the user,
 - one or more sensors that are configured to detect a selected piece of clothing being selected from the inventory, coupled to the database for updating the clothing profile based on the selected piece of clothing,
 - a recommendation unit that is configured to generate the recommendation for the recommended piece of clothing from the updated clothing profile, and
 - a rendering system that is configured to present the recommendation to the user.

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 17 of 23

3. The system of claim 2, wherein

the recommendation unit is further configured to:

determine a list of available pieces of clothing from the inventory, and
combine plural pieces from the list to form a collection of

subsets,

the recommendation comprising at least one subset from the collection of
subsets.

4. The system of claim 3, wherein

the recommendation unit is further configured to eliminate from the collection a
number of subsets that are not suitable for a present situation.

5. The system of claim 2, wherein

the user profiling unit is coupled to a smart card reader/writer that is configured
to maintain the clothing profile stored on a smart card.

6. The system of claim 2, further comprising

input means for determining a purpose for which the piece of clothing has
been selected,

the user profiling unit being further configured to update the clothing profile
further based on the determined purpose.

7. The system of claim 6, wherein

the input means is arranged to determine the purpose based on an
appointment in an electronic calendar.

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 18 of 23

8. A method of presenting a targeted clothing advertisement to a user, comprising
obtaining a clothing profile for the user,
determining a clothing product that matches the clothing profile, and
sending an identifier of the clothing product to the user.
9. The method of claim 8, further comprising
generating a representation of the clothing product using the identifier and
rendering the representation to the user.
10. The method of claim 8, wherein the clothing profile is obtained by reading the
clothing profile from a smart card.

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 19 of 23

11. A method of presenting a recommendation of an ensemble to a user, comprising:
 maintaining an inventory of apparel possessed by the user,
 determining one or more subsets of apparel from the inventory suitable for
forming the ensemble,
 presenting at least one of the one or more subsets of apparel to the user.

12. The method of claim 11, wherein
 determining the one or more subsets suitable for forming the ensemble is
based on at least one of:
 a user preference,
 current fashion,
 a dress code, and
 prior selected ensembles.

13. The method of claim 11, wherein
 determining the one or more subsets suitable for forming the ensemble is
based on at least one of:
 a dominant color of the ensemble,
 a color of each apparel in the subset,
 a dominant style of the ensemble,
 a time of year for wearing the ensemble,
 a time of day for wearing the ensemble, and
 current environmental conditions.

**Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004**

Page 20 of 23

14. The method of claim 11, wherein
determining the one or more subsets suitable for forming the ensemble
includes at least one of:
applying one or more rules,
determining one or more distances,
determining one or more weights, and
modifying parameters used for determining the one or more subsets
based on prior user selections.
15. The method of claim 11, further including
identifying an apparel item that is not in the inventory that would form another
subset suitable for forming the ensemble if combined with apparel in the inventory.

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 21 of 23

16. An apparel recommendation system comprising:
- an inventory system that is configured to maintain an inventory of apparel possessed by a user,
 - a processor that is configured to identify one or more subsets of apparel in the inventory suitable for forming an ensemble, and
 - a display that is configured to present at least one of the one or more subsets of apparel to the user.
17. The system of claim 16, wherein
- at least some of the apparel includes a tag that identifies the apparel to the inventory system.
18. The system of claim 16, wherein
- the processor is configured to identify the one or more subsets based on at least one of:
 - a user preference,
 - current fashion,
 - a dress code,
 - prior selected apparel, and
 - prior selected ensembles.
19. The system of claim 16, wherein
- the processor is configured to identify the one or more subsets based on at least one of:
 - a dominant color of the ensemble,
 - a color of each apparel in the subset,
 - a dominant style of the ensemble,
 - a time of year for wearing the ensemble,
 - a time of day for wearing the ensemble, and
 - current environmental conditions.

Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004

Page 22 of 23

20. The system of claim 16, wherein

the processor is configured to identify the one or more subsets via at least one of:

applying one or more rules,
determining one or more distances,
determining one or more weights, and
modifying parameters used for determining the one or more subsets
based on prior user selections.

21. The system of claim 16, further including:

a network interface that is configured to facilitate receipt of advertisements for other apparel,

the processor is further configured to filter the advertisements based on whether the other apparel forms another subset suitable for forming another ensemble if combined with apparel in the inventory, and

the display is further configured to present the another subset to the user.

22. The system of claim 21, further including:

an input device that facilitates a purchase of the other apparel in the another subset by the user.

23. The system of claim 16, further including

a smart card read/write device, and

wherein the processor is further configured to transfer some or all of the inventory of apparel to a smart card via the smart card read/write device.

**Appl. No. 09/933,782
Appeal Brief in Response
to final Office action of 8 October 2004**

Page 23 of 23

24. The system of claim 23, wherein

the processor is further configured to transfer one or more user preferences to the smart card via the smart card read/write device.

25. The system of claim 16, wherein

the system is further configured to detect an initial selection of a first apparel item, and

the processor is configured to identify the one or more subsets based on this initial selection.